

Editor's note: Appealed -- aff'd, Civ.No. 78-167 (D.Wyo. March 22, 1979), aff'd, No. 79-1407 (10th Cir. Jan. 15, 1980) 612 F.2d 1280

SUSAN DAWSON

IBLA 78-98

Decided May 15, 1978

Appeal from decision of the Wyoming State Office, Bureau of Land Management, dated October 28, 1977, disqualifying offer to lease for oil and gas for failure to make timely payment of the first year's advance rental for lease W-60879, parcel WY-104.

Affirmed.

1. Oil and Gas Leases: Noncompetitive Leases -- Oil and Gas Leases:
Generally

An offer to lease for oil and gas is properly rejected where payment for the first year's advance rental is not received in the appropriate office of the Bureau of Land Management within 15 days after a Notice of Rental Due is received by the offeror pursuant to 43 CFR 3112.4-1.

APPEARANCES: John S. Kirkham, Van Cott, Bagley, Cornwall and McCarthy, Salt Lake City, Utah, for Appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Susan Dawson appeals from a decision of the Wyoming State Office, Bureau of Land Management (BLM), disqualifying her offer to lease W-60879 for oil and gas made in connection with a simultaneous oil and gas lease drawing held August 22, 1977, in which appellant's drawing entry card was drawn with first priority. A Notice of Rental Due for lease W-60879 issued on September 19, 1977, and was received at appellant's address September 24, 1977. She responded by tendering a check to BLM, which BLM received on October 4, 1977. This check was mistakenly completed in that the written amount indicated on the check read "One thousand eighty one" dollars while the figure amount appeared in the correct amount \$1,281.

BLM returned this check to appellant with a request for a check in the correct amount of \$1,281 and on October 14, 1977, after the

15-day period allowed by regulation had expired, received a second check from appellant the figure amount of which was \$1,280, and the written amount of which was "One thousand two hundred and eighty one" dollars. This check similarly was returned to Ms. Dawson. On October 25, 1977, BLM received a check with both the figure amount and the written amount shown to be \$1,280. This check was not responsive to the notice. By a decision dated October 28, 1977, BLM ruled that the deadline for the rental payment ended at 4 p.m. on October 11, 1977, and that payment not having been received from appellant at that time, her offer was disqualified under 43 CFR 3112.4-1 which allows 15 days from receipt of a Notice of Rental Due for payment of that first year's advance rental. Appellant appeals from this decision.

[1] In a number of previous decisions involving the late payment of advance rentals for Federal oil and gas lease offers, this Board has upheld strict application of the 15-day deadline set forth in 43 CFR 3112.4-1, supra. See, e.g., Jack Koegel, 30 IBLA 143 (1977); Carma M. Pooley, 29 IBLA 304 (1977). While we note that the check received October 25, 1977, was doubtless a negotiable instrument in the amount of \$1,281, 1/ it was, nevertheless, received after the October 11, 1977, deadline, supra. Failure to make timely rental payment compels rejection of an offer to lease. Koegel, supra; Pooley, supra. Duncan Miller, 17 IBLA 267 (1974), John Oakason, 13 IBLA 80 (1973).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Joan B. Thompson
Administrative Judge

1/ In the event of a discrepancy between the written and figure amounts of a check, the printed or written amount governs the amount for which it is a valid order to pay. This result follows from Sec. 3-118 of the Uniform Commercial Code which has become the applicable State law in each of the United States, excepting Louisiana. See R. Anderson, Anderson on the Uniform Commercial Code, Sec. 3-118 (2d ed. 1970)

